



special
collections
DOUGLAS
Library



QUEEN'S UNIVERSITY
AT KINGSTON

KINGSTON ONTARIO CANADA

CONSIDERATIONS

On the late

B I L L

F O R

Payment of the REMAINDER

O F T H E

NATIONAL DEBT,

In which the Occasion of inserting

The CLAUSE

RELATIVE TO HIS

MAJESTY'S CONSENT,

A N D

The ARGUMENTS in Support of such RIGHT
in the CROWN, are impartially stated.

by Mr. Robinson, supervised by Lord Ch. Baron Byles.

D U B L I N, printed :

LONDON, re-printed ; and sold by WILLIAM OWEN,
in Fleet-street. M.DCC.LIV.

AC 711.1759. K64

CONSIDERATIONS

On the late

B I L L

F O R

Payment of the R E M A I N D E R

O F T H E

NATIONAL DEBT.

POPULAR Prejudices having been raised to a surprising Height, against the late Bill for Payment of the Sum of Seventy-seven thousand five hundred Pounds, out of the Ballance in the Treasury, in Discharge of what remained unpaid of the National Debt, on account of the Recital, relating to His Majesty's previous *Consent*, which was inserted in *Great Britain* ; and occa-

A 2

sion

sion having been taken, without Doors, from the Rejecting of that Bill, to spread Insinuations, injurious to Government, and tending to alienate the Affections of His Majesty's Subjects; by representing that Bill as an Attempt to vest some new and unconstitutional Power in the Crown, over the Money in the Treasury of this Kingdom: It will be, at least, an honest Attempt, to endeavour to quiet the Fears and Apprehensions of the People, by laying before the Public, a true State of the Facts which gave Occasion to the inserting of that Clause; and also an Account of the Principles on which the Right, asserted therein, is founded. From whence it will appear, that as it never was designed to vest, so, if the Bill had passed into a Law, it would not have vested, any new Power in the Crown, over the Money, which now is, or hereafter may be, in the Treasury of
 this

this Kingdom: And that the only Operation of the Clause would have been a Parliamentary acknowledgement of the King's ancient Right to the *Application* of the Money in the actual Receipt of the Treasury; as had been made, upon the like Occasion, in the Bill of the former Session. And the Proceedings relating to this Matter previous to the present Bill, will also shew the necessity His Majesty was under of supporting this Right, by requiring such Acknowledgment thereof, after it had been once called in Question; or otherwise he must, for the future, have submitted to what (if such Right be in the Crown) would have been injurious to His Prerogative and Dignity.

To set this Transaction in a clear Light, it must be taken up at the Year, One thousand seven hundred and forty-nine: when, upon stating of the Public Accounts by the Commissioners

missioners appointed for that Purpose, it appeared, that on the twenty-fifth Day of March, there was in the Hands of the Vice Treasurers, or their Deputies, a Ballance of about Two hundred and twenty thousand Pounds.

The Amount of this Sum rendered it an Object of public Consideration; and perhaps, it was the first Instance of a Ballance in the Treasury that deserved any great Attention: It therefore well became Those in Authority, to consider in what way the Whole, or Part, might be best applied, for the Ease of the People, and for Public Service.

At this Time there remained unpaid of the National Debt, about the Sum of Three hundred and seventy-eight thousand five hundred Pounds. Whether the Proposal moved from the then Lord Lieutenant, or from some other Person, that Part of this Ballance should be applied to the Discharge

charge of so much of the National Debt, I cannot take upon me to say; nor is the Enquiry material: But, in fact, the King's Attorney-General was the Mover of it in the House of Commons. As the Occasion was new, it is not to be wondered at, that the Gentlemen who conducted the Affair, on this Side the Water, should not be exact as to the Form in which his Majesty's *Consent* ought to appear: And probably, they apprehended that the Return of a Bill for that purpose, under the Great Seal of *Great Britain* would be a sufficient Notification of His Majesty's *previous Consent* to such *Application*. But be that as it may; Heads of a Bill were brought into the House of Commons, in the Session of One thousand seven hundred and forty-nine, for Payment of the several principal Sums of Seventy thousand Pounds, and Fifty-eight thousand Pounds,

Pounds, in Discharge of so much of the National Debt: In which Bill, after several Recitals relating to the Debt, and what remained unpaid, it was further recited in the Words following, viz. “whereas on the Twen-
 “ty-fifth day of March last, a
 “considerable Ballance remained in
 “the Hands of the Vice Treasurers,
 “or Receivers General of this King-
 “dom, or their Deputy or Deputies,
 “*unapplied*, and it will be for your
 “Majesty’s Service, and for the Ease
 “of your faithful Subjects of this
 “Kingdom, that so much thereof
 “*as can be conveniently spared, should*
 “*be paid, agreeably to your Majesty’s*
 “*most gracious Intentions*, in Dis-
 “charge of Part of the said Debt.”

From hence an ordinary Person would certainly have understood, that His Majesty’s *Intentions* (which amount to a *Consent*) had been signified *previous* to the Recital: And
 that

that His Majesty was allowed thereby to be Judge of what could be *conveniently spared*: But as that Recital, though it seems strongly to imply His Majesty's *previous Consent*, had not clearly and explicitly expressed the same, and not having done so, might occasion future Cavils on that Head; it is said (and I presume the Fact is well known to be true) that Objections were made to this Bill, on that Account, by those, to whom it was, as usual, referred in *Great-Britain*. How it happened, that His Majesty's *Consent* was not by them, at that Time, inserted, may I think be fairly accounted for; as the Omission on this side, seemed to have been occasioned meerly by the Novelty of the Case, without any Intention of questioning the King's Right: And it was the less necessary to make the Alteration then; because it was highly probable, the like *Application* of Part of

B

the

the Residue of the Money in the Treasury would be made the next Sessions; and then the *Consent* might be Originally inserted in the Bill, which, as might reasonably be supposed, would pass without Objection. In Fact, the Bill in One thousand seven hundred and forty-nine was returned as sent over, and afterwards received the Royal Assent.

His Grace the Duke of *Dorset* succeeded the Earl of *Harrington* as Lord Lieutenant. And as there remained a considerable Sum in the Treasury, His Grace in his Speech from the Throne, on opening the Session of One thousand seven hundred and fifty-one, declared to the House of Commons, “ that he was
 “ commanded by the King, to acquaint them, that His Majesty,
 “ ever attentive to the Ease and
 “ Happiness of His Subjects, would
 “ graciously *Consent*, and recom-
 “ mended

“ *mended* it to them, that such
 “ Part of the Money, then remain-
 “ ing in His Treasury, *as should*
 “ *be thought consistent with the Pub-*
 “ *lick Service,* be *applied* towards
 “ the further Reduction of the Na-
 “ tional Debt.” This shewed that
 His Majesty considered his *previous*
Consent, as necessary to that *Applica-*
tion.

The Heads of the Bill, brought
 into the House of Commons, in
 Consequence of this Clause in his
 Grace’s Speech, and the Bill framed
 on those Heads recited, “ thankful
 “ Acknowledgments of His Ma-
 “ jesty’s gracious Attention to the
 “ Ease and Happiness of His Sub-
 “ jects, in *recommending* the *Appli-*
 “ *cation* of the Money remaining
 “ in the Treasury, so far as it might
 “ be consistent with the publick
 “ Service, towards the further Re-
 “ duction of the National Debt.”

This Recital did in the most respectful Manner, acknowledge His Majesty's Goodness *in recommending the Application* : Yet, by leaving out the Word *Consent*, implied, that it was imagined, that such *Consent* was not necessary. The Bill, thus framed, was sent in the usual Manner to *Great Britain*, where the Word *Consent* was inserted in the Bill returned under the Great Seal of *Great Britain*; and was plainly so inserted in Affirmance of what His Majesty insisted on, in right of His Prerogative. This Bill, thus altered, passed both Houses of Parliament without any Objection, or a single Negative ; and received the Royal Assent.

As this was the first Instance wherein this Right of the Crown was, even seemingly, questioned, This Act must be considered as a *Precedent* of the greatest Weight: For the Right insisted on by the Crown, and claimed,

ed, as I may say, in the Lord Lieutenant's Speech, was not admitted in the Bill, when sent to *Great Britain*; and yet the Bill passed, after it had been inserted as above-mentioned; and it passed without any Resolution against its being made a *Precedent*, as was done in the Year One thousand six hundred and ninety-two, or any Intimation given, that such was the Intention of the House.

The Authority of this *Precedent* has been acknowledged to be of such Strength, that in order to weaken it, a Falshood was industriously propagated, and for some Time believed by many, viz. *that some Assurance had been given, that the like would not be again insisted upon; or, that this Bill should not be drawn into Precedent.* But this is now admitted, by all who must have known it, if true, to be an idle Story, without the least Foundation in Fact.

The

The next Period was, on His Grace's Return to this Kingdom, to hold the present Sessions of Parliament; when, as there remained the Sum of Seventy-seven thousand five hundred Pounds of the National Debt unpaid, and also a large Balance in the Treasury, His Grace in his Speech from the Throne, as in the precedent Session, declared to the Commons " that He was commanded by His Majesty to acquaint
 " them, that he would graciously
 " *consent*, and *recommended* it to them,
 " that so much of the Money remaining in His Treasury as should be
 " necessary, be *applied* to the Discharge of the National Debt, or of
 " such Part thereof as they should
 " think expedient."

As the whole Debt was now to be paid off, the Loan Duties were not necessary to be continued: Consequently, the Bill was singly for *applying* so much of the Ballance in the Treasury,

Treasury, for Discharge of what remained of the National Debt. And it has been received as an undoubted Fact, that the Person employed to prepare the first Draught of the Heads of such Bill, followed the *Precedent* of the former Session, in transcribing thence the Recital of His Majesty's *Consent*. How, or on what Motives, this Recital was totally left out of the Heads of the Bill, when brought into Parliament, I shall not presume to conjecture: But it is certain, that the Heads of the Bill, as brought into the House of Commons, and the Bill framed on those Heads, as transmitted to *Great-Britain*, were without any Recital of His Majesty's *previous Consent*, or even any Acknowledgement of His Majesty's gracious *Recommendation* or *Intentions*, which had not been omitted in the two former Bills. The Recital in the *rejected* Bill stood thus. " And where-

" as

“ as on the twenty-fifth Day of
 “ *March* last, a considerable Bal-
 “ lance remained in the Hands of the
 “ Vice Treasurers or Receivers Ge-
 “ neral of this Kingdom, or their
 “ Deputy or Deputies,” We most
 humbly pray, &c. The omitted Re-
 cital was inserted, in *Great-Britain*,
 immediately after the other, in the
 Words following, “ And your Ma-
 “ jesty, ever attentive to the Ease and
 “ Happiness of your faithful Sub-
 “ jects, has been graciously pleased
 “ to signify, that you would *consent*,
 “ and to *recommend* it to us, that so
 “ much of the Money remaining in
 “ your Majesty’s Treasury, as should
 “ be necessary, be *applied* to the
 “ Discharge of the National Debt,
 “ or of such Part thereof, as should
 “ be thought expedient by Parlia-
 “ ment.” As this Recital was the
 only Part of the Bill, to which the
 Committee of the House of Com-
 mons

mons afterwards disagreed, and as by the Parliamentary Proceedings in this Kingdom, Bills transmitted under the Great Seal of *Great-Britain*, must be received as *sent*, or rejected; it may be justly presumed, that the Bill was rejected merely on that Account.

I presume, no Person could be surprized to find the omitted Recital restored in *Great-Britain*. The Crown was evidently under this Dilemma, either to make the Alteration, or to give up the Right in Question. The Letter, which is said to have come from His Majesty's Privy Council in *Great-Britain*, signed by all the Officers of the Law in the Council, and by the principal Officers of the State, strongly expresses His Majesty's, as well as their, Sense of this Right in the Crown: And the whole Proceedings declared, that the inserting the Recital was only in affirmance of that Right, and not an Attempt to acquire

quire any new Power; which brings the Whole to this single Question, *whether the Trust of applying the Money given by Parliament to the Crown, without any special APPROPRIATION, and in the actual Receipt of His Majesty's Treasury, is by the Laws and Constitution of this Kingdom, vested in the Crown for publick Services?* If the Affirmative be true, His Majesty, under that *constitutional Trust*, must be the Judge of the Occasion, the Time, and the Sum; for He solely has the executive Power, and knows the various Exigencies of Government, and which of them ought to have the Preference in the *Application*. Consequently, when an *Application* shall be proposed by any other Power, His *Consent* must be obtained *previous* thereto. To object to any particular manner of signifying or receiving such *Consent*, is playing with Words; since if His *Consent*

sent

sent be necessary, that Manner of signifying, or receiving it, which leaves least Occasion to question the Right, is what ought to be observed ; and as a Parliamentary Acknowledgment will best answer that End, it would be vain to object thereto, if the Right be admitted. But if that Right be denied, or doubted, then the Question upon that Right will come properly and fairly under Consideration ; and therefore, whether this Right be Part of the *Prerogative* is the true Question, on which the Receiving or Rejecting the Recital of the King's *Consent* in that Bill ought to depend. This is very different from the Question, whether any new Power should be granted ? The one is a Question upon the Right, and may be asserted by the Power, which claims to be intitled to it, without any Design to incroach upon the Rights of others ; whereas the Attempts to acquire new

Powers (if not necessary for the public Good) will ever create Jealousies and Suspensions : And in this Light, I must presume the Question arising from the Recital in this last Bill has been considered.

Some indeed have imagined that the Recital's having been inserted in *Great-Britain*, was the Reason of rejecting the Bill : But I do not suppose it could be so. The Bill, to which this Addition was made, could not with Propriety be called a *Money Bill*, for in my Apprehension, that Title should be restrained to those Bills which grant Money to the Crown : But exclusive of this Observation, I think, that, as the Law now stands, and under our present Constitution, no one can say, that Bills of all Sorts, sent from hence may not be altered, by His Majesty in *Great-Britain*. *Poyning's* Law, as expounded by the Statute of the 3d and 4th

4th of *Philip* and *Mary*, is clear and exprefs, that the King may *change* or *alter* the *Bills*, or any *Part* of them ; and this Power hath been constantly exercifed. I fhall mention but a few, out of many, *Instances*. The Bill for the Settlement of *Ireland*; in the Reign of King *Charles II.* was fo altered in *England*, that it came over almoft a new Bill. There was a very great Alteration made in the firft Bill *to prevent the Growth of Popery*, in the Time of Queen *Anne* ; and in the Year One thoufand feven hundred and twenty nine, there were feveral Alterations made in the Bill for the Loan Duties. I might mention many others : But in Truth, there are fcarce any, *even Money Bills*, tranfmitted to *Great Britain*, that do not receive fome Alterations there. In thofe I have mentioned, and a Multitude of others, the Alterations have been material : In fome they have been

been minute, probably made only in Assertion of the Right of doing so. And therefore rejecting the Bill, barely on Account of the Alteration's being made in *Great-Britain*, would be denying a known, settled, constitutional Right. But when Objections arise to the Substance of the Alteration, it is just and right to pass, or put a Negative on such Bill, according to the Merits.

I shall therefore submit to the Reader's Consideration, such Reasons as seem to me conclusive to prove, *that the Trust of applying the Money given by Parliament to the Crown, without any special APPROPRIATION, is, by the Laws and Constitution of this Kingdom, vested in the Crown for publick Services.*

And for the better understanding of this Matter, it will be necessary to state shortly the several Branches of the publick Revenue, out of which
the

the Money paid into the Treasury arises. The Reader therefore is to be informed, that the publick Revenue of this Kingdom consists of His Majesty's *Hereditary Revenue*: *The additional Duties granted for the better Support of Government*: *And the appropriated Duties*. But these last being specially *applied* by Parliament at the Time of granting them, they are only paid into the Treasury for Convenience, and are not subject to any other *Application*, than that for which they were given. They are separately accounted for, and issued by different Warrants, being paid (according to the Directions of the several Acts of Parliament) to the Orders, or on the Receipts, of the Corporations, or private Persons, respectively interested therein; without any Warrant signed by the Government. I shall therefore discharge

charge the Case of those Duties, and consider it on the other two Branches.

What is at present called *the King's Hereditary Revenue*, from it's being vested in the King, His Heirs and Successors for ever, amounts *in Gross*, at a Medium of the last eight Years, to about Four hundred and sixty thousand Pounds a Year: And the Branches of it are either such as the King is intitled to at Common Law, or such as have been granted by several Acts of Parliament, in the Reign of King *Charles* the Second. The first *Class* comprehends, First, the *Crown Rents*, which are Rents reserved to the Crown, on Grants made by the King, of Lands, Rectories, Fairs, &c. and the present Amount of them, is about Fourteen thousand Pound a Year. Secondly, the *Composition Rents*, which are Rents agreed to be paid in lieu of *Cess* and *Press*. Most of these
arise

arise from the Province of *Connaught* and County of *Clare*, under the Composition made with Sir *John Perrot*, Lord Deputy in Queen *Elizabeth's* Time : But there are some which depend on a *Composition* made with Sir *William Fitzwilliams*. The whole of these *Composition Rents* is now computed at about One Thousand Pounds a Year. The next Article of this *Class*, is the *old Poundage* ; a Duty the King was intitled to, by a very old Statute, on all Goods Imported, or Exported, and which by the Statute of the Fifteenth of King *Henry* the Seventh, was fixed to Twelve Pence in the Pound, according to the Value of the Goods. The Annual Amount of this cannot be set out, as it is blended with the new *Poundage* and *Tunnage*. Fourthly, the *Light-House Duties*, amounting to about Five Hundred Pounds a Year, make the next Article.

ticle. Fifthly, the *casual Revenue*; consisting of *Forfeitures, Fines, Seizures, Custodiam Rents*, and other Particulars, amounting, *communibus Annis*, to about One thousand five hundred Pounds, makes the last Article.

The Produce of this first *Class* will be admitted to belong to the Crown, to be *applied* by the Crown, under the *Constitutional Trust*, for publick Services.

The other Branches composing the second Class, though granted by particular Acts of Parliament, appear to have been granted in Lieu of Others, to which the Crown was at Common Law intitled, but for the Ease of the Subject have been parted with. And therefore the Duties granted by those Acts, must be considered as under the same *Trust* with those they came in Lieu of, unless such *Trust* be varied, or new
 Ones

Ones fixed by exprefs Words in thofe, or fome other, Acts of Parliament.

The Quit Rents, amounting to above Fifty thoufand Pounds a Year, were referved, in purfuanee of the Act of Settlement, out of the Forfeitures, on account of the Rebellion, which began in One thoufand fix hundred and forty one. *The Hearth Money*, now amounting to about Fifty thoufand Pounds a Year, was given in Lieu of the Court of *Wards*: And from the firft Confideration mentioned in the *Excife* Act, I think it may be not unreafonably inferred, that *That* Branch, which at a Medium of the laft eight Years, amounts to about One hundred and ninety thoufand Pounds a Year, was alfo given as a Compenfation for the Forfeitures parted with, for the Settlement of the Kingdom. But indeed, from the Hiftory of thofe Times, it may be collected, that the parting

with the *Forfeitures*, was much more than a full Purchase for all the Revenue granted to King *Charles* the Second; and that it was the real Inducement for making those Grants to Him.

These several Branches were granted in different Manners. *The Quit Rents, the Excise, the new Poundage, and Tunnage, and the Wine, and Strong Water Licenses*, were given to the Crown, under the general *Trust*, without any Restriction.

The Act of *Excise*, recites
 “ how much it will concern the
 “ Peace, Tranquillity, and Welfare
 “ of His Majesty’s Subjects, that
 “ some certain Revenue be establish-
 “ ed for, and towards the constant
 “ Pay of the Army, and for defray-
 “ ing other publick Charges, in the
 “ Defence, and Preservation of the
 “ Realm.” And the Act of *Tunnage*,
 and *Poundage*, after reciting the old
Poundage,

Poundage, and establishing a Book of Rates, does, “ for the better guarding and defending of the Seas against all Persons intending, or that may intend, the Disturbance of the Intercourse of the Trade of this His Majesty’s Realm, and for the better defraying the necessary Expences thereof, which cannot be effected without great Charge; and for Increase and Augmentation of His Majesty’s Revenue,” Grant a further Subsidy of *Poundage*, and a Subsidy of *Tunnage*.

These Recitals mention some of the Motives for granting, and they specify some of the publick Uses, for which the Money arising from those Grants, was given. But the general Words, *for defraying other publick Charges for the Defence and Preservation of the Realm*, in the one Act; and the Words *for Increase and Augmentation of His Majesty’s*

jeſty's Revenue, in the other, do ſhew that no *Appropriation* was intended, but that the Diſcretionary Power of *Application* remained in the Crown.

The Act, granting the *Hearth Money*, reſtrains the Crown from Charging it with Gift, Grant, or Penſion. The Act, granting the Revenue of *Ale Licenſes*, reſtrains the Crown from Farming it, or charging it with Gift, Grant, or Penſion. The *Engliſh Act of Reſumption*, (111. *William III.*) makes the *Crown Rents*, *Quit Rents*, and *Chiefries*, unalienable; and enacts, that they ſhall for ever be, and remain for the Support and Maintenance, of the Government of this Kingdom. And theſe are the only Branches of the *Hereditary Revenue*, which the Crown is reſtrained, at this Day, from charging or aliening. But theſe Reſtrictions differ widely from an *Appropriation*. The Crown cannot alien the Fund, becauſe it would
deprive

deprive the Publick of what was intended to go in *Succession*, for the Support of Government, through the Administration of the King then in being, His Heirs, and Successors. But the Right of the then Prince, to *apply* the current Produce for publick Services, neither was, nor was intended to be, thereby restrained: And therefore these Branches, thus restrained in Point of Alienation, remain *unapplied* by Parliament, under the general *Trust* for publick Uses. And accordingly we find frequent Instances, since the Act of *Resumption*, where the Crown has remitted Arrears of Rent; and this Power hath not been disputed.

The next Branch to be considered, is the *additional Duties*; which are those granted to make good what the *Hereditary Revenue* could not answer.

These

These do not, as in the former Instances, come in Lieu of Others, but are Grants “for the Support of “His Majesty’s Government.” They are granted *generally*, and not to answer a particular Sum, which the Parliament is bound to make good, as is the Case of the *Civil List Revenues* in *Great-Britain* : And so far as they are granted without special *Appropriation*, they are granted to the Crown, under the same general *constitutional Trust* with the *Hereditary Revenue* ; and the *Trust* reposed in the Crown, is the same as to both.

In the Acts, granting these *additional Duties*, some *Appropriations* are generally specified ; as those to the Officers of the House ; and, from the Year One thousand seven hundred and seventeen, to the Year One thousand seven hundred and twenty-nine, to the Interest of the Loan ; before particular Duties were set a-
part

part for that Purpose. But this does not vary the Case : These, for so much as they amount to, are *Appropriations* ; but the Residue of the Produce is, *at large*, under the general *constitutional Trust*.

The Right of granting Money, is admitted to be in the *Commons* ; and those Grants are either general to the Crown, as in the Case of the *Hereditary Revenue and additional Duties*, or they are made specially, and the Uses to which the Money granted is to be *applied*, are expressed. And, as in the one Case where there is a special *appropriating* Clause, the Money granted must be applied to the Uses specified ; so on the other Hand, where the Grant to the Crown is without such Restriction, the Trust of *Application* devolves upon the Crown, and particular *Applications* are always founded on the King's *previous Consent*.

E

That

That such *Trust* must of necessity be vested in the Crown, will appear, when we consider, that these Aids are granted *for the Support of Government* : Now the King, who is at the Head of the State, and knows its various Exigencies, alone can be presumed to know how the Government can be best *supported*. Such *Trusts* must, in the Nature of Things, be lodged in the *executive* Powers of all States, or they could not subsist — But again, if this *Trust* be not in the Crown, where is it vested? There is no special Law for the Purpose, except in the Cases of Parliamentary *Appropriations*. To say, it is in the Parliament, is absurd : The Parliament has uncertain Times of Meeting, but the Exigencies of Government are daily, and hourly. In many Instances, they cannot admit of Delay, and would be defeated if disclosed : And yet all these must be unprovided for,

for, unless such a *Trust* be admitted in the Crown. In this Kingdom, the annual Expence of Government, is always discharged by the King, out of the Produce of the *unappropriated Funds*, and must be so, or those necessary Expences of Government would be unprovided for, we not having *appropriated Funds* for the Purpose, as they have in *England*.

If such *Trust* be in the Crown, the King's *Consent* is necessary *previous* to *publick Deliberations* on the *Application*; otherwise such *Deliberations* thereon, might lay the Crown under great Difficulties, and be attended with bad Consequences to Government.

If any further Evidence be necessary to prove this Right in the Crown, the Proceedings in Parliament admit it. In the House of Commons in *Great-Britain*, where the Right of the Crown is to be affected, the

Crown is applied to, and His Majesty's *Consent* is signified by some of his Servants, impowered by him, to give such *Consent*, which is accompanied with His Majesty's *Recommendation*, where He *desires* the thing may be done: Some Instances of this Sort I shall mention. April 20th, One thousand seven hundred and twenty-five, the Chancellor of the *Exchequer*, signified His Majesty's *Consent*, *previous* to receiving the late Lord *Bolingbroke's* Petition, praying that Leave might be given to bring in a Bill, to enable him, notwithstanding his Attainder, to enjoy the Estate of his Family settled on him, and to enjoy his personal Estate, and to purchase. The King's *previous Consent* was necessary, because His Right to the Forfeitures might be affected. In One thousand seven hundred and thirty-three, the like *Consent* was signified on bringing in the *Excise* Bill,
and

and in One thousand seven hundred and thirty-six, on bringing in the *Gin Bill*, because some of the *Civil List Revenue* might be affected by both those Bills. The like was done in One thousand seven hundred and thirty-eight, on a Petition of the Dean and Chapter of *Westminster*, for Money for the Repairs of their Cathedral. The Reason of His Majesty's *previous Consent* in this Case, I take to be, that the Grant would be an APPROPRIATION, and take so much out of the General *Trust* in the Crown. But it is needless to enumerate Instances of what, I believe, is the constant Practice. I have met with one Instance where it is mentioned in the Act of Parliament: It is the Act of the First of His late Majesty, *for raising Money for publick Uses out of the Rebels Estates*. The Preamble takes Notice of His Majesty's gracious *Condescensi-*

on in this Behalf. This is not only an Acknowledgment of the King's *Consent*, but of a Favour in his giving it, for such I take the Import of the Word *Condescension* to be. The Reason of this Acknowledgement was, that the Rebels Estates were Forfeitures, vested in the Crown, which His Majesty in His Speech from the Throne had declared he would give up, to be *applied* towards defraying the extraordinary Expence occasioned by the Rebellion. In *Ireland*, almost every Session affords Instances of Acknowledgments of this Right, in the several Addresses of the House of Commons for Money. They address the Lord Lieutenant, to lay before His Majesty their *humble Desire*, that His Majesty would be pleased out of His *Royal Bounty* to give certain Sums. This is desiring a Favour, and acknowledging a Bounty ; which would be absurd, if the Crown had not the Right of *Application*.

Such

Such Addreffes were made to the Crown, both this and the laſt Seſſions, in Favour of the College, and Charter-Schools.

Again, if this Right be not in the Crown, how comes it to paſs, that His Maſteſty's *Letters*, under His Sign Manual, for the Payment of Money out of the Treafury, have always been obeyed, and never queſtioned in Point of Law ? On the contrary, It is the received Opinion amongſt the Lawyers, that His Maſteſty's *Court of Exchequer*, in whom the judicial Powers relating to the Revenues of the Crown are veſted, have no Power over the Money in the Treafury ; but that the Application muſt be by *Petition* to the King.

In the next Place, it may be proper to conſider the Objections made againſt this Claim of Right.

As to the Objection, that under *Poyning's* Law, the Bills come at firſt from the Crown, and therefore
the

the very bringing them into the House, is a sufficient Signification of the King's *previous Consent*; it has been already sufficiently answered. If the Right be certain, it ought to be acknowledged in that Manner, which will leave the least Room for doubt. But there is a Fallacy in this Objection, for though our *Constitution* be such, yet we know, that in Fact, Money Bills are generally framed on Heads that have been prepared in the House of Commons.

The principal Objection is, that the Produce of these several Funds, is accounted for to Parliament; and from thence it has been inferred, that it is publick Money, subject to Parliamentary *Application*, without other *Consent*, than what is given by the Royal Assent to the Bill, when passed into a Law. This seems founded on a Mistake, as to the Reason, and Manner, of laying the publick

lick Accounts before the House of *Commons*, as will appear from a short History of this Usage, and an Account of the Effects of it.

No Account of the Disposition of the King's Revenue in this Kingdom, was laid before Parliament till the Year One thousand six hundred and ninety-two, when the Crown wanted further Supplies. Then indeed, a Motion was made, that such Accounts might be brought in : But the Reason of the Motion appears on the Journal, *viz.* " that it might be the
 " better known what Supplies were
 " necessary to be given to Their
 " Majesties ;" so that they were not called for as a *Right*, but desired as a *Direction* for their Discretion in the Grants they were making : And for the same Reason they have been, every Sessions since, brought into Parliament : So that, in Truth, were not Supplies demanded, such Accounts would not have been tendered : And the going
 F through

through the Accounts, is only to enable the House to judge, what may be the Measure for the Supply ; not to *appropriate* the Balance, if any there should be ; for that remains as Money already vested in the Crown, for publick Services : And I do not know of any Instance, where such Balance has ever been *appropriated* by Parliament, without the *previous Consent* of the Crown.

The Account I have now given, is confirmed by the Proceedings in the Year One thousand seven hundred and nine, when there was the largest Balance in the Treasury that ever was before the Earl of *Harrington's* Time. The Parliament did not *appropriate* it, nor direct it's *Application* ; though this might perhaps be a Reason of their making the Grant of the *additional Duties* in that Session the less, for I find, they appropriated to the *Linen Manufacture* the Duties on imported Linen, and Callicoes,

Callicoes, which in the Sessions before had been given for the *Support of Government*.

Further. The Accounts stated by the Committee of the House of Commons frequently do, and must, vary from those stated by the Commissioners of Accounts ; the former taking Credit where the Demands are outstanding, and uncertain Debts, and not giving Credit for other Articles ; by which the Balances struck by the Committee and the Commissioners vary. But this does not alter the Manner of Accounting in the Treasury before the Commissioners, or induce a Charge on the Treasury exceeding the Balance struck by them. The only Use made of the Accounts in Parliament is, as a Measure of what they shall provide for publick Services ; but they leave the *Application* of the Money, when raised, under the general *Trust* in the Crown.

The Saying, that this is publick Money, being given by the Publick, and therefore to be accounted for to them, is unfair Reasoning: For, if the Publick have once intrusted the Crown by the general Grant, whilst that *Trust* remains, the Disposition is in the Crown, subject always to the *Trust* upon which it was vested, for the Use of the Publick. And here it may not be amiss to observe, that it is a settled Point in Law, that the King's *Prerogative* cannot be affected by *Implication*, or taken away but by clear Words in an Act of Parliament, or expresse Concessions from the Crown.

To say there are no Precedents of such *Consent* in Acts of Parliament, were the Objection true, would be of no Weight, unless it can be made to appear, that there have been Acts to *apply* the Money, after it came into the Receipt of the Treasury: Which I presume there are not, because till
this

this Occasion, the Produce of the Funds have not exceeded the annual Charge of Government, so as to render the Balance an Object of publick Regard.

Some indeed have said, that the passing the publick Accounts in Parliament, wherein Payments by the King's *Letters* are an Article, and being allowed, are confirmed, ought only to be considered as an Allowance of necessary Payments to go in that Course. But this Distinction will not remove the Difficulty. Either these *Letters* are legal Warrants, or they are not. If they be not, the Committee of Accounts cannot make them so; and what can lessen the Dignity of the Crown, or the Honour of the House of Commons, so much, as the supposing these Warrants are unconstitutional, and that Payments made under their Authority are illegal? It were to be wished, that those who make the Objection
would

would shew any other Method, by which Money can be issued out of the Treasury.

To raise the Fears and Suspensions of the People, by Insinuations drawn from a Possibility of this Power's being abused, may answer the Ends of Clamour, but ought not to have any Weight as an Argument, if this *Trust*, vested in the Crown, be Part of our present Constitution. Possible Abuse may be considered, where Powers are to be given, or taken away ; but whilst the Power subsists, an Abuse of it is not to be *presumed*, nor can such *Presumption* warrant the withholding the Rights consequent on such Power. In all cases Power may be abused, but yet it must necessarily be lodged somewhere for the ordinary Purposes of Life, as well as of Government. Will any one say, that there ought not to be *Executors* or *Trustees*, because they may abuse their *Trust* ? But how injurious are such

such Insinuations on the present Occasion, where the Crown *recommends* the *Application*, and offers to *Consent*, that the Money in the Treasury should be *applied* to pay off what remained of the National Debt? Nor is the Publick without a Remedy in Case of Abuse: The true parliamentary Check will always remain, either to *withhold* future Grants, in Proportion to Misapplications, or to punish those, who shall wickedly advise such Acts as would be a Breach of the publick *Trust*.

The candid Reader will now judge, whether any Occasion has been justly given for those *inflaming* Reports, which have been spread Abroad amongst the People, of Attempts to give new Powers to the Crown; or for those Insinuations, by which the People have been misled to think the publick Treasure was in Danger. Their Sense of this Danger appears from their Conduct; and let those
who

who have given Rise to, or increased these Apprehensions, answer for the Consequences, which may attend the alienating the Minds of His Majesty's Subjects of this Kingdom from the Government, and consequently, from the Person of His Majesty. The Design of these Sheets is to shew, that such Fears are groundless, and that His Majesty's Conduct towards His People has in this, as in every Instance of his Reign, been equally just with Regard to their *Liberties*, and His *Royal Prerogative*; and if they shall, in any Degree, contribute to remove Jealousies, from the Minds of *the hitherto distinguishedly affectionate* Subjects to His Majesty, the End of this Pamphlet will be fully answered.

APPENDIX.

A P P E N D I X.

THAT the candid Reader may be truly informed of the real Import of the Bill to which these Sheets refer, I have annexed a Copy of the said Bill, as transmitted under the Great Seal of *Great-Britain*; together with His Majesty's *Commission* to His Grace the Lord Lieutenant, for giving the Royal Assent thereto, from a *Duplicate* thereof, now in the *Secretary's Office*.

The Bill.

That for Payment of the sum of
Twenty-four thousand five hundred
and twenty pounds, or so much thereof as
shall remain due on the Twenty-fifth
Day of December, next, to be paid
from moneys and supplies in
Discharge of the National Debt,
in respect of the sum of five hundred
and thirty-four thousand five hundred
pounds, for interest on the said
Twenty-fifth Day of December, One
thousand nine hundred and fifty-
three, and on Twenty-fifth Day
of March One thousand nine hundred
and fifty-four.

WHEREAS it is not lawful
for the House of Parliament
to vote any sum for Payment of
the Principal sum of One hundred
and twenty thousand pounds in 1853
large

The BILL.

An Act for Payment of the Sum of Seventy-seven thousand five hundred Pounds, or so much thereof, as shall remain due on the Twenty-fifth Day of December, One thousand seven hundred and fifty-three, in Discharge of the National Debt, together with Interest for the same, at the Rate of Four Pounds per Centum per Annum, from the said Twenty-fifth Day of December, One thousand seven hundred and fifty-three, until the Twenty-fifth Day of March, One thousand seven hundred and fifty-four.

WHEREAS by an Act, passed the last Session of Parliament, intituled, An Act for Payment of the Principal Sum of One hundred and twenty thousand Pounds, in Dis-

G 2

charge

charge of so much of the National Debt, and for Granting to His Majesty an additional Duty on *Wine, Silk, Hops, China, Earthen japaned, or lacquered Ware, and Vinegar,* and also a Tax of Four Shillings in the Pound, on all Salaries, Profits of Employments, Fees and Pensions, to be applied to discharge the Interest of the said principal Sum, until the same shall be paid ; and also to pay an Interest of Four Pounds *per Centum per Annum*, for the Sum of One hundred and seventeen thousand five hundred Pounds, which will remain due, after Payment of the said Sum of One hundred and twenty thousand Pounds, and towards the Discharge of the said Sum of One hundred and seventeen thousand five hundred Pounds, or so much thereof as shall remain due on the Twenty-fifth Day of *December*, One thousand seven hundred and fifty-one ;

several

several Aids and Duties were granted, and continued to your Majesty, from the Twenty-fifth Day of *December*, One thousand seven hundred and fifty-one, until the Twenty-fifth Day of *December*, One thousand seven hundred and fifty-three inclusive, for the Payment of the principal Sum of One hundred and seventeen thousand five hundred Pounds, with the Interest thereof, and for other Purposes therein mentioned. AND WHEREAS the several Aids and Duties granted, and continued to Your Majesty by the said recited Act, have not proved sufficient to pay off, and discharge the said Principal Sum of One hundred and seventeen thousand five hundred Pounds, and the Interest thereof, as by the said recited Act is directed, but the Sum of Seventy seven thousand five hundred Pounds, or the greatest Part thereof will remain unpaid on the said Twenty-fifth Day

Day of *December*, One thousand seven hundred and fifty-three. AND WHEREAS, on the Twenty-fifth Day of *March* last, a considerable Balance remained in the Hands of the Vice Treasurers, or Receivers General of this Kingdom, or their Deputy, or Deputies : “AND Your Majesty, ever
 “ attentive to the Ease and Happi-
 “ nefs of Your faithful Subjects, has
 “ been graciously pleased to signify,
 “ that You would consent, and to
 “ recommend it to Us, that so much
 “ of the Money remaining in your
 “ Majesty’s Treasury as should be
 “ necessary, be applied to the Dis-
 “ charge of the National Debt, or
 “ of such Part thereof as should be
 “ thought expedient by Parliament ;”
 We most humbly pray, that it may be enacted, AND be it enacted by the King’s Most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in this present Parli-
 ment

ment assembled, and by the Authority of the same, that so much of the said Balance, remaining in the Hands of the Vice Treasurers or Receivers General of this Kingdom, or their Deputy or Deputies, upon the Twenty-fifth Day of *March* last, as shall be for that Purpose necessary, be by them applied to pay off and discharge the said principal Sum of Seventy-seven thousand five hundred Pounds, or so much thereof as shall remain due on the said Twenty-fifth Day of *December*, One thousand seven hundred and fifty-three; after the Application of the Money arising from the Aids and Duties heretofore granted for the Payment thereof, and also to pay an Interest for the same, after the Rate of Four Pounds *per Centum per Annum*, from the said Twenty-fifth Day of *December*, One thousand seven hundred and fifty-three, until the Twenty-fifth Day of *March*,

One

One thousand seven hundred and fifty four. And be it further enacted by the Authority aforesaid, that all and every Person or Persons, his, her or their Executors, Administrators or Assigns, who shall on the said Twenty-fifth Day of *March*, One thousand seven hundred and fifty-four, be possessed of, and entitled to any Orders or Receipts which have been issued out of Your Majesty's Treasury for any Loan, in pursuance of any Act of Parliament heretofore made, shall on the said Twenty-fifth Day of *March*, One thousand seven hundred and fifty four, or as soon after as he, she or they shall apply for the same, be paid by the Vice Treasurer, or Vice Treasurers, his or their Deputy or Deputies, out of the said Balance so remaining in their Hands, the principal Sums to him, her or them respectively due, and all Interest which shall be due to them respectively for such principal

principal Sums, upon the said Twenty fifth Day of *March*, One thousand seven hundred and fifty-four, at the Rate of Four Pounds *per Centum per Annum*, and shall upon Payment thereof, deliver up his, her or their respective Orders or Receipts to the Vice Treasurer or Vice Treasurers, his or their Deputy or Deputies, to be Cancelled, which he or they are hereby required to receive and cancel accordingly; and the Interest, payable by Virtue of such Orders or Receipts, shall, from and after the said Twenty-fifth Day of *March*, One thousand seven hundred and fifty-four, cease and determine.

D. Ryder.

H

The Commission.

GEORGE the Second, by the Grace of God, of *Great-Britain, France, and Ireland*, King, Defender of the Faith, and so forth. To Our Right Trusty and Right entirely beloved Cousin and Councillor, *Lionel Duke of Dorset*, Our Lieutenant-General and General Governor of Our Kingdom of *Ireland*, and other Our Chief Governor or Governors of Our said Realm, for the Time being, or which hereafter shall be, Greeting.

WHEREAS We have lately received from you Our said Lieutenant-General and General Governor, and others of Our Council of that Realm, certain Bills to be considered upon, concerning Matters necessary for our said Realm : And having had Consideration thereof, We do by these Presents declare

Our

Our Royal Approbation of one of them hereunto annexed, and herein also particularly named, with the Amendment and Alteration therein (that is to say) An Act for Payment of the Sum of Seventy seven thousand five hundred Pounds, or so much thereof as shall remain due on the Twenty-fifth Day of *December*, One thousand seven hundred and fifty-three, in Discharge of the National Debt, together with Interest for the same, at the Rate of Four Pounds *per Centum per Annum*, from the said Twenty-fifth Day of *December*, One thousand seven hundred and fifty-three, until the Twenty-fifth Day of *March*, One thousand seven hundred and fifty-four ; AND do return the same unto You, under Our Great Seal of *Great-Britain*, signifying also unto You, by these Presents, that Our Pleasure and Commandment is, that the said Bill and Matters therein contained,

ed,

ed, being affyled together with these Presents, Ye shall likewise cause to be considered, and treated upon in Our Parliament, begun, holden, and continued within Our said Realm, and to the same Bill and Matters, being agreed and concluded upon in Our said Parliament, give and declare Our Royal Assent, by Virtue of these Presents ; which shall also be your sufficient Warrant in that Behalf. IN WITNESS whereof, we have caused these Our Letters to be made Patent. WITNESS Ourself at *Westminster*, the Thirtieth Day of *November*, in the Twenty-seventh Year of Our Reign.

By the King Himself.

30 Nov. 1753, D. RYDER.

YORKE and YORKE.

